

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

GREGORY BENTON,

Plaintiff,

No. 03:13-cv-00613-ST

v.

JOHN DOE 1, in his individual and official
capacity; and JOHN DOE 2, in his individual
and official capacity,

ORDER

Defendants.

HERNANDEZ, District Judge:

Magistrate Judge Stewart issued a Findings and Recommendation (#4) on April 19, 2013, in which she recommends that this Court dismiss the Complaint for lack of subject matter jurisdiction. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, I am relieved of my obligation to review the record *de novo*. United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); see also United States v. Bernhardt,

840 F.2d 1441, 1444 (9th Cir. 1988) (*de novo* review required only for portions of Magistrate Judge's report to which objections have been made). Having reviewed the legal principles *de novo*, I find no error.

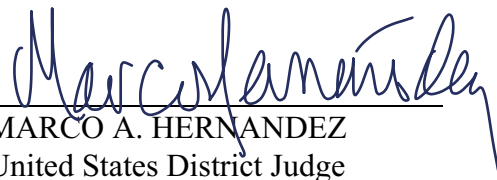
In a May 6, 2013 filing, Plaintiff seeks a "30 day extention [sic] of time to fulfill the findings and recommendation that Magistrate Judge Stewart in the order." Mtn for Ex. [dkt #7]. Plaintiff further states that he intends to amend his Complaint and address the issues raised by Judge Stewart. Although this filing was docketed as a motion for extension of time to file objections to the Findings & Recommendation, I construe it as a motion to allow sufficient time for Plaintiff to file an amended complaint. So construed, I grant the motion and give Plaintiff thirty days from the date of this Order to file an amended complaint.

CONCLUSION

The Court ADOPTS Magistrate Judge Stewart's Findings & Recommendation [4]. Accordingly, the Complaint [1] is dismissed. Plaintiff's motion for extension of time [7] is construed as a motion to allow sufficient time to file an amended complaint and is granted. Plaintiff has thirty days from the date of this Order in which to file an amended complaint.

IT IS SO ORDERED.

DATED this 14 day of May, 2013.


MARCO A. HERNANDEZ
United States District Judge